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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

# REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:  
Commissioner for Patents  
Box RCE  
Washington, DC 20231

Application Number	09/827,495
Filing Date	April 6, 2001
First Named Inventor	L. Delgado-Herrera
Art Unit	1617
Examiner Name	San-ming Hui
Attorney Docket Number	6688.US.01

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

## 1. Submission required under 37 CFR 1.114

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☒ Other Return Receipt Postcard & 6 References

## 2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

## 3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 01-0025
- i. ☒ RCE fee required under 37 CFR 1.17(e) 02/06/2003 EAREGAY1 00000011 010025 09827495
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17) 01 FC:1801 750.00 CH
- iii. ☐ Other \_\_\_\_\_
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Patricia R. Coleman James	Registration No. (Attorney/Agent)	37155
Signature	<i>Patricia Coleman</i>	Date	January 29, 2003

## CERTIFICATE OF MAILING OR TRANSMISSION

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Name (Print/Type)	Robin S. Evans	Date	January 29, 2003
Signature	<i>Robin S. Evans</i>		

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

Applicant(s): L. Delgado-Herrera, *et al.*

Serial No.: 09/827,495

Filed: April 6, 2001

For: TREATMENT OF ICU-ASSOCIATED  
HYPOCALCEMIA WITH VITAMIN D  
COMPOUNDS

Case No.: 6688.US.01

Examiner: San Ming R. Hui

Group Art Unit: 1617

Commissioner for Patents  
Box RCE  
Washington, D.C. 20231

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RESPONSE

Dear Sir:

The following is in response to the Examiner's Final Action (Paper No. 8) mailed May 16, 2002 in the subject application.

REMARKS

This Response is in reply to the Office Action mailed on May 16, 2002.

Claims 1 and 3-9 are pending. Reconsideration of the final rejection is respectfully requested in view of the Remarks that follow.

**Rejections under Section 112**

Claims 1, 3-6 and 8 stand rejected under Section 112, first paragraph on the basis that the "specification does not enable those skilled in the art to use the claimed invention commensurate in scope with these claims." The Office Action states that the specification fails to provide sufficient information for one skilled in the art to practice the invention without undue experimentation and an "exhaustive search" for embodiments would be required since the specification does not define the recited phrases "Vitamin D2 derivatives" and "Vitamin D3 derivatives".

Applicants disagree. First, those of ordinary skill understand the cited phrases in the context of Applicants' claimed invention and as described in the specification. The rationale of the rejection overlooks the fact that those of ordinary skill in the relevant art routinely reference a readily accessible and active research and patent literature concerning the various